

State of California
Regional Water Quality Control Board
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT
August 13, 2003

ITEM: 10

SUBJECT: NPDES PERMIT REVISION: ADDING THE SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY AS A COPERMITTEE TO THE SAN DIEGO COUNTY MS4 STORM WATER PERMIT (TENTATIVE ADDENDUM NO. 1 TO ORDER NO. 2001-01) (Phil Hammer)

PURPOSE: The purpose of this item is to add the San Diego County Regional Airport Authority as a Copermittee to Order No. 2001-01, the San Diego Municipal Storm Water Permit.

PUBLIC NOTICE: This item was publicly noticed in the San Diego Union Tribune on June 13, 2003 (Supporting Document 5). The written comment period for this item closed on July 23, 2003, providing a 40-day time period for written comments to be received.

DISCUSSION: On January 1, 2003, the San Diego Unified Port District (Port) transferred the San Diego International Airport (Airport) to the newly formed San Diego County Regional Airport Authority (Airport Authority). With this transfer, the Airport Authority assumed responsibility for the urban runoff discharging to San Diego Bay from the municipal separate storm sewer system (MS4) draining the Airport.

Since 1990, the MS4 draining the Airport has been regulated as a Phase I MS4 under the Port's jurisdiction, most recently by Order No. 2001-01. When responsibility for a regulated MS4 is transferred, Attachment C of Order No. 2001-01 requires the Order to be modified to name the new responsible party. If adopted, Tentative Addendum No. 1 to Order No. 2001-01 (Supporting Document 2) would achieve this by naming the Airport Authority as the party responsible for urban runoff discharges from the Airport's MS4.

The Airport Authority is an appropriate Copermittee under Order No. 2001-01. Placing the Airport Authority as a Copermittee under Order No. 2001-01 ensures that urban runoff discharges from the Airport MS4 will continue to be regulated at the same rigorous level as they have been regulated over the last 13 years.

Moreover, the Airport's MS4 continues to meet the criteria for regulation under Order No. 2001-01, as those criteria are spelled out in Finding No. 1 of the Order. The Airport MS4 is interrelated and interconnected to surrounding medium and large MS4s. It also has the potential to be a significant contributor of pollutants to waters of the United States which could cause or contribute to an exceedance of water quality standards.

The proposed language of Tentative Addendum No. 1 has undergone significant discussion among interested parties. In particular, the Regional Board, Airport Authority, and other Copermittees have discussed the most effective manner in which to add the Airport Authority to Order No. 2001-01 as a Copermittee. During preliminary stages of the development of the Tentative Addendum, Airport Authority and Copermittee input was sought by the Regional Board.

The Copermittees expressed concern that adding the Airport Authority as a Copermittee to Order No. 2001-01 would create a significant administrative burden by necessitating the reopening of the Memorandum of Understanding (MOU) under which the Copermittees operate as a group. To alleviate this concern, the Tentative Addendum has been redrafted to preclude the MOU requirement (section N.1.a of Order No. 2001-01) from applying to the Airport Authority. While a MOU between the Airport Authority and the other Copermittees can still be developed at their discretion, it is not required by the Tentative Addendum.

The Airport Authority also had suggestions for changing the wording of the findings of the Tentative Addendum (Supporting Document 4). These suggested changes focused on supporting the Airport Authority's position as a willing Copermittee which has taken significant steps to develop and implement an effective urban runoff management program. Since the Airport Authority's suggested changes only applied to the findings of the Tentative Addendum, and did not impact the Tentative Addendum's overall effect, the Regional Board attempted to incorporate many of the Airport Authority's suggested changes into Tentative Addendum No. 1. These changes are represented by Errata Sheet No. 1 (Supporting Document 1).

Following these modifications to the Tentative Addendum, it appears that all interested parties are in support of the document as proposed. The Airport Authority has written an email of support (Supporting Document 3) for the Tentative Addendum, as modified by Errata Sheet No. 1. Moreover, the Copermittees have provided no written comments, and appeared to support the resolution of the MOU issue when it was presented to them at their July 17, 2003 Copermittee meeting.

LEGAL CONCERNS: None

RECOMMENDATIONS: Adopt Tentative Addendum No. 1 to Order No. 2001-01 as proposed.

**SUPPORTING
DOCUMENTS:**

1. Errata Sheet No. 1 for Tentative Addendum No. 1 to Order No. 2001-01.
2. Tentative Addendum No. 1 to Order No. 2001-01.
3. Comments from the Airport Authority on the proposed changes found in Errata Sheet No. 1 for Tentative Addendum No. 1 to Order No. 2001-01.
4. Comments from the Airport Authority on Tentative Addendum No. 1 to Order No. 2001-01, prior to the proposed changes found in Errata Sheet No. 1.
5. Public Notification.

Supporting Document 1

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

**ERRATA SHEET NO. 1
FOR
TENTATIVE ADDENDUM NO. 1
TO
ORDER NO. 2001-01**

**AN ADDENDUM MODIFYING RESPONSIBILITY FOR ORDER NO. 2001-01 TO
INCLUDE THE SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY AS A
SAN DIEGO MUNICIPAL STORM WATER PERMIT COPERMITTEE**

The following changes were made in response to comments from the San Diego County Regional Airport Authority. Changes were made only to the findings of Tentative Addendum No. 1, and do not modify the effect of the tentative addendum.

Deletions are indicated by strike-outs and additions are indicated by underlines.

Finding 2.b

The San Diego County Regional Airport Authority owns or operates a MS4 which falls into one or more of the following categories listed in Order No. 2001-01: (1) a medium or large MS4 that services a population of greater than 100,000 or 250,000 respectively; or (2) a small MS4 that is "interrelated" to a medium or large MS4; or (23) a MS4 which contributes to violations of water quality standards (in San Diego Bay); and or (34) a MS4 which is a significant contributor of pollutants to waters of the United States (San Diego Bay).

Finding 3.a

Prior to January 1, 2003, the MS4 draining the San Diego International Airport area was under the jurisdiction of the San Diego Unified Port District, a Copermittee regulated under Order No. 2001-01. ~~As such, the San Diego County Regional Airport Authority's MS4 has been regulated under Order No. 2001-01.~~

Finding 3.b

~~The Clean Water Act contains an "anti-backsliding" provision at section 402(e) which prohibits a permit from being renewed, reissued, or modified "[...] to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit."~~

Finding 3.c

Continued regulation of the San Diego County Regional Airport Authority's MS4 under Order No. 2001-01 will ensure compliance with the Clean Water Act ~~section 402(e).~~

Finding 4.b

The San Diego County Regional Airport Authority is a "Responsible Copermittee" ~~for~~ under the ~~San Diego Bay Watershed~~ Urban Runoff Management Program requirements of section J of Order No. 2001-01 as they pertain to the San Diego Bay watershed.

Supporting Document 2

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

**TENTATIVE ADDENDUM NO. 1 TO ORDER NO. 2001-01
NPDES PERMIT NO. CAS0108758**

**AN ADDENDUM MODIFYING RESPONSIBILITY FOR ORDER NO. 2001-01
TO INCLUDE THE SAN DIEGO COUNTY REGIONAL AIRPORT
AUTHORITY AS A SAN DIEGO MUNICIPAL STORM WATER PERMIT
COPERMITTEE**

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board) finds that:

1. Regional Board Order No. 2001-01 (NPDES Permit No. CAS0108758), *Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, and the San Diego Unified Port District*, prescribes requirements for the control of pollutant discharges from MS4s within San Diego County.
2. The entities regulated under Order No. 2001-01 own or operate MS4s which fall into **one or more** of the following categories: (1) a medium or large MS4 that services a population of greater than 100,000 or 250,000 respectively; or (2) a small MS4 that is "interrelated" to a medium or large MS4; or (3) a MS4 which contributes to a violation of a water quality standard; or (4) a MS4 which is a significant contributor of pollutants to waters of the United States.
 - a. The San Diego County Regional Airport Authority's jurisdiction covers 614 acres, with its boundaries roughly following Pacific Highway to the northeast, Laurel Street to the southeast, Harbor Drive to the south, McCain Road to the west, and the Marine Corps Recruit Depot to the north. This jurisdiction includes runways, terminals, cargo shipping areas, fixed base operations areas, ground support areas, parking lots, an inactive landfill, the municipal separate storm sewer system, and other associated facilities.
 - b. The San Diego County Regional Airport Authority owns or operates a MS4 which falls into the following categories listed in Order No. 2001-01: (1) a small MS4 that is "interrelated" to a medium or large MS4; (2) a MS4 which contributes to violations of water quality standards (in San Diego Bay); and (3) a MS4 which is a significant contributor of pollutants to waters of the United States (San Diego Bay).
 - c. As an entity which owns or operates a MS4 which meets the criteria for regulation under Order No. 2001-01, it is appropriate for the San Diego County Regional

Airport Authority to be regulated under Order No. 2001-01.

3. The San Diego County Regional Airport Authority is a newly created entity which received jurisdiction for the MS4 draining the San Diego International Airport area from the San Diego Unified Port District on January 1, 2003.
 - a. Prior to January 1, 2003, the MS4 draining the San Diego International Airport area was under the jurisdiction of the San Diego Unified Port District, a Copermittee regulated under Order No. 2001-01. As such, the San Diego County Regional Airport Authority's MS4 has been regulated under Order No. 2001-01.
 - b. The Clean Water Act contains an "anti-backsliding" provision at section 402(o) which prohibits a permit from being renewed, reissued, or modified "[...] to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit."
 - c. Continued regulation of the San Diego County Regional Airport Authority's MS4 under Order No. 2001-01 will ensure compliance with Clean Water Act section 402(o).
4. With adoption of this Addendum by the Regional Board, responsibility for compliance with Order No. 2001-01 for the urban runoff discharges from the MS4 draining the San Diego International Airport area transfers from the San Diego Unified Port District to the San Diego County Regional Airport Authority.
 - a. Compliance with section N.1.a of Order No. 2001-01 could place an unreasonable administrative burden on the San Diego County Regional Airport Authority and the other Copermittees covered under Order No. 2001-01 by requiring creation or amendment of a Memorandum of Understanding between the parties. To alleviate this potential burden, this Addendum does not require compliance by the San Diego County Regional Airport Authority with section N.1.a of Order No. 2001-01.
 - b. The San Diego County Regional Airport Authority is a "Responsible Copermittee" for the San Diego Bay Watershed Urban Runoff Management Program requirements of section J of Order No. 2001-01.
5. The Regional Board has notified all known interested parties of its intent to modify Order No. 2001-01 to reflect the addition of the San Diego County Regional Airport Authority as a party responsible for complying with Order No. 2001-01, with the exception of section N.1.a of Order No. 2001-01.
6. The Regional Board in a public hearing heard and considered all comments pertaining to the modification of Order No. 2001-01.

IT IS HEREBY ORDERED THAT

1. Order No. 2001-01 is modified to include the San Diego County Regional Airport Authority as a Copermittee subject to all requirements specified by Order No. 2001-01, with the exception of section N.1.a of Order No. 2001-01.
2. The San Diego County Regional Airport Authority shall comply with the submittal requirements of Order No. 2001-01 sections B.3, D.2, F.1.b.2, and H by submitting the required documents to the Regional Board no later than August 19, 2003.

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Addendum adopted by the California Regional Water Quality Control Board, San Diego Region, on August 13, 2003.

Tentative

JOHN H. ROBERTUS
Executive Officer

Supporting Document 3

From: "Manasjan Paul" <pmanasja@san.org>
To: "Phil Hammer" <hammp@rb9.swrcb.ca.gov>
Date: 7/21/03 11:37AM
Subject: RE: Tentative Addendum

Good Morning Phil:

Good seeing you at the copermittee meeting last week. As discussed, we are satisfied with the proposed changes to the tentative addendum you prepared in response to our concerns. I appreciate your efforts in finding a workable solution for all concerned parties with regards to the Airport Authority's inclusion into the Municipal Permit.

Thank you,

Paul

-----Original Message-----

From: Phil Hammer [mailto:hammp@rb9.swrcb.ca.gov]
Sent: Friday, July 11, 2003 3:28 PM
To: Manasjan Paul
Subject: Re: Tentative Addendum

Paul,

Here is our proposed changes to the tentative addendum in response to the Airport Authority's suggested changes. Please don't distribute the document, since we don't want various versions out there causing confusion. Let me know what you think. Thanks,

-Phil

Supporting Document 4

From: "Manasjan Paul" <pmanasja@san.org>
To: <hammp@rb9.swrcb.ca.gov>
Date: 7/3/03 11:26AM
Subject: Tentative Addendum

Phil:

The Airport Authority's chief legal counsel has reviewed your June 12, 2003 draft tentative addendum and has requested the changes found in the attached document. In our attorney's mind, these proposed changes would eliminate any potential controversies and thereby allow this item to go on consent with our agency's full support. Please let me know if you have any further concerns or questions regarding this matter.

Thanks for all your efforts,

Paul

Paul Manasjan, Director
Environmental Affairs Department
San Diego County Regional Airport Authority
P.O. Box 82776, San Diego, CA 92138-2776

Work#: 619.400.2783
FAX#: 619.400.2794
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<<Tentative Addendum 1.proposed changes.doc>>

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

**TENTATIVE ADDENDUM NO. 1 TO ORDER NO. 2001-01
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2. The entities regulated under Order No. 2001-01 own or operate MS4s which fall into **one or more** of the following categories: (1) a medium or large MS4 that services a population of greater than 100,000 or 250,000 respectively; or (2) a small MS4 that is "interrelated" to a medium or large MS4; or (3) a MS4 which contributes to a violation of a water quality standard; or (4) a MS4 which is a significant contributor of pollutants to waters of the United States.
 - a. The San Diego County Regional Airport Authority's jurisdiction covers 614 acres, with its boundaries roughly following Pacific Highway to the northeast, Laurel Street to the southeast, Harbor Drive to the south, McCain Road to the west, and the Marine Corps Recruit Depot to the north. This jurisdiction includes runways, terminals, cargo shipping areas, fixed base operations areas, ground support areas, parking lots, an inactive landfill, the municipal separate storm sewer system, and other associated facilities.
 - b. The San Diego County Regional Airport Authority owns or operates ~~a MS4 which falls into the following categories listed in Order No. 2001-01: (1) a small MS4 that is "interrelated" to a medium or large MS4 listed in Order No. 2001-01; (2) a MS4 which contributes to violations of water quality standards (in San Diego Bay); and (3) a MS4 which is a significant contributor of pollutants to waters of the United States (San Diego Bay).~~
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 - b. ~~The Clean Water Act contains an "anti-backsliding" provision at section 402(e) which prohibits a permit from being renewed, reissued, or modified "[...] to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit."~~
 - e. Continued regulation of the San Diego County Regional Airport Authority's MS4 under Order No. 2001-01 will ensure compliance with the Clean Water Act section 402(e).
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 - b. The San Diego County Regional Airport Authority is "Responsible Copermittee" for the San Diego Bay Watershed Urban Runoff Management Program requirements of section J of Order No. 2001-01 as it pertains to the Pueblo San Diego Hydrologic Unit.
5. The Regional Board has notified all known interested parties of its intent to modify Order No. 2001-01 to reflect the addition of the San Diego County Regional Airport Authority as a party responsible for complying with Order No. 2001-01, with the exception of section N.1.a of Order No. 2001-01.
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IT IS HEREBY ORDERED THAT

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2. _____.
- ~~2.3.~~ The San Diego County Regional Airport Authority shall comply with the submittal requirements of Order No. 2001-01 sections B.3, D.2, F.1.B.2, and H by submitting the required documents to the Regional Board no later than August 19, 2003.

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is full, true, and correct copy of an Addendum adopted by the California Regional Water Quality Control Board, San Diego Region, on August 13, 2003.

Tentative

JOHN H. ROBERTUS
Executive Officer

Supporting Document 5

